

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

DENNIS AYALA,

Plaintiff(s),

- against -

**THE CITY OF NEW YORK, POLICE OFFICER
EEVAN JOHNSON (Shield No. 11101, Tax ID #949143)
POLICE OFFICER "JOHN DOE",**

Defendant(s).

**JUDGMENT FOR PROMPT
PAYMENT FOLLOWING
SETTLEMENT**


INDEX No. 23000/2012

Law Dept. No. 2013-011141

Upon reading and filing the annexed affirmation, dated August 5, 2014, by Michael F. Rubin, Esq., attorney for the plaintiffs herein pursuant to CPLR 5003-a, it is;

ORDERED, ADJUDGED AND DECREED, that the plaintiff, Dennis Ayala residing at [REDACTED] New York, New York 10038 recover of the defendant, 100 Church Street, New York, New York, the sum of (\$37,500.00) Dollars, with interest thereon from the day of April 21, 2014, in the sum of (\$ 1003.12) Dollars, together with costs and disbursements as taxed in the sum of \$ 560.00 , amounting in all to the sum of (\$ 39,063.12) Dollars, and that the plaintiff have execution therefor.

Judgment signed this day of AUGUST 6, 2014.



Luis M. Diaz
COUNTY CLERK
AUG 06 2014

RECEIVED BY:

AUG 06 2014

Judgment Department



T 156—Bill of Costs (with CPLR sections) Blank Form, 1-95

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www.blumberg.comSUPREME COURT
COUNTY OF BRONX

Dennis Ayala

Plaintiff(s)

against

City of New York, et al.

Defendant(s)

Costs of
index No. 23000/2012

COSTS

Costs before note of issue \$ 200
 CPLR §8201 subd. 1
 Costs after note of issue
 CPLR §8201 subd. 2
 Trial of issue
 CPLR §8201 subd. 3
 Allowance by statute
 CPLR §8302(a), (b)
 Additional allowance
 CPLR §8302 (d)
 Motion costs
 CPLR §8202
 Appeal to Appellate Term
 CPLR §8203 (b)
 Appeal to Appellate Division
 CPLR §8203 (a)
 Appeal to Court of Appeals
 CPLR §8204
 Costs upon frivolous claims
 and counterclaims
 CPLR §8303-a

DISBURSEMENTS

Fee for index number CPLR §8018(a) \$ 210
 Referee's fees CPLR §8301(a)(1), 8003(a)
 Commissioner's compensation CPLR §8301(a)(2)
 Clerk's fee, filing notice of pend. or attach. CPLR §8021(a)(10)
 Entering and docketing judgment CPLR §8301(a)(7), 8016(a)(2)
 Paid for searches CPLR §8301(a)(10)
 Affidavits & acknowledgments CPLR §8009
 Serving copy summons & complaint CPLR §8011(b)(1), 8301(d)
 Request for judicial intervention
 Note of issue CPLR §8020(a)
 Paid referee's report CPLR §8301(a)(12)
 Certifying copies of papers CPLR §8301(a)(4)
 Sanction for place CPLR §5020(a), 8021
 Transcripts and filing CPLR §8021
 Certified copy of judgment CPLR §8021
 Respite CPLR §8301(a)(12)
 Jury fee CPLR §8020(c)
 Stenographers' fees CPLR §8002, 8301
 Sheriff's fees on execution CPLR §8011, 8012
 Sheriff's fees, attachment, arrest, etc. CPLR §8011
 Paid pending cases CPLR §8301(a)(6)
 Clerk's fees Court of Appeals CPLR §8301(a)(12)
 Paid copies of papers CPLR §8016(a)(4)
 Master expenses CPLR §8301(b)
 Fee for publication CPLR §8301(a)(3)
 Serving subpoens CPLR §8011(b)(1), 8301(d)
 Paid for Search CPLR §8301(a)(10)
 Referee's report
 Attendance of witnesses CPLR §8001(a)(b)(c), 8301(a)(1)

\$ 210

30
95

25

I hereby certify that I have
adjusted this bill of costs at

\$ 560.00

AUG 06 2014

Date

Clerk

Luis M. Diaz

COSTS \$ 200

DISBURSEMENTS \$ 360

\$ 200

\$ 360

\$ 560

\$ 360

STATE OF NEW YORK, COUNTY OF BRONX

ss.

ATTORNEY'S AFFIRMATION

The undersigned, an attorney admitted to practice in the courts of this state, affirms: **MICHAEL F. RUBIN, J.S.R.**
 of **KELLY + RUBIN LLP**
 the attorney(s) of record for the **PLAINTIFF(S)** in the above entitled action; that the foregoing disbursements have been or will necessarily be made or incurred in this action and are reasonable in amount and that each of the persons named as witnesses attended as such witness on the trial, hearing or examination before trial herein the number of days set opposite their names; that each of said persons resided the number of miles set opposite their names from the place of said trial, hearing or examination; and each of said persons, as such witness as aforesaid, necessarily traveled the number of miles so set opposite their names in traveling to, and the same distance in returning from, the same place of trial, hearing or examination; and that copies of documents or papers as charged herein were actually and necessarily obtained for use.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated: **AUG 5, 2014**

[Signature]
 The lines signed upon be printed names

Index No. **25000/2012**
Supreme Court
COUNTY OF BRONX

Dennis Ayala

Plaintiff(s)

against

City of New York, et al.

Defendant(s)

Bill of Costs
 and Notice of Taxation

Please Take Notice that the within is a true copy of the items of costs and disbursements in the within action taxed, and that the same will be taxed by the Clerk of **THE SUPREME COURT**, at his/her office in the courthouse thereof on **AUGUST 6, 2014** at **9:30 AM** of that day—and the amount inserted in the judgment. Yours, etc.

Kelly + Rubin, LLP
 (Attorney(s) for
PLAINTIFF

To **NYC CCLP Counsel**

Attorney(s) for **DEFENDANT**

Service of the within bill of costs and notice of taxation is hereby admitted on

Attorney(s) for

* State not use (CPLR §2402, §403)

being duly sworn, deposes and says; that deponent is not a party to the action, is over 18 years of age and resides at

That on

deponent served the within bill of costs and notice of taxation on

attorney(s) for

at his/her office at

being his/her absence from said office

the next attorney(s) at (s)

) by then and there leaving a true copy of the same with

either clerk, partner, person having charge of said office,

) and said office being closed, by depositing a true copy of the same in a sealed wrapper directed to said attorney(s), in office letter drop or box.

on or before me on

of New York, County of

ss.

being duly sworn, deposes and says; that deponent is not a party to the action, is over 18 years of age and resides at

That on

deponent served the within bill of costs and notice of taxation on

attorney(s) for

whereas designated by said attorney(s) for that purpose by sending a true copy of same enclosed in a postpaid properly sealed wrapper, in a post office—official depository with the exclusive care and custody of the United States Postal Service within New York State.

on or before me on

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

DENNIS AYALA

Plaintiff(s),

- against -

**THE CITY OF NEW YORK, POLICE OFFICER
EVAN JOHNSON (Shield No. 11101, Tax Id. No 949143)
and POLICEOFFICER "JOHN DOE",**

Defendant(s).

**STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)**

**AFFIRMATION IN
SUPPORT OF JUDGMENT
FOR PROMPT PAYMENT
FOLLOWING SETTLEMENT**

INDEX No. 23000/2012

Law Dept. No. 2013-011141

RECEIVED BY:

AUG 05 2014

Judgment Department

MICHAEL F. RUBIN, ESQ., an attorney duly admitted to practice before the courts of the State of New York and not a party to this action, hereby affirms the following under penalty of perjury:

1. I am a member of the law firm of Kelly & Rubin, LLP., the attorneys for the plaintiff, in this action, and am fully familiar with the facts of this matter as set forth herein. I am submitting this affirmation in support of the entry of a judgment, pursuant to CPLR 5003-a(e), on behalf of plaintiff because of defendant, The City of New York failure to comply with the provisions of CPLR 5003-a(a).

2. Plaintiff brought this action to recover damages for False Arrest and Unlawful Imprisonment. The action was commenced on November 30, 2012, by the filing of a summons and complaint in Supreme Court, Bronx County. Defendant duly appeared by serving an answer on April 9, 2013.

3. The incident occurred on October 18, 2011, at about 6:30 p.m., in front of 315 East 187th Street and Valentine Avenue, in the County of the Bronx, City and State of New York

while plaintiff was attempting to park his car. The defendants wrongly and falsely accused, arrested, imprisoned, and detained the plaintiff, without any rights or grounds therefore.

4. On April 17, 2014, Gianna M. Famulari, Esq., on behalf of defendant, The City of New York and Robert P. Kelly, Esq., on behalf of plaintiff, reached a settlement, whereby defendant agreed to pay plaintiff a sum of \$37,500.00. See Stipulation of Settlement attached as Exhibit "A". Thereafter, on April 23, 2014 defendant's attorney received a duly executed release (attached as Exhibit "B") and a duly executed stipulation discontinuing the action, as well as proof of delivery upon defendant (attached as Exhibit "C"). Plaintiff thereby tendered to defendant the release and stipulation in compliance with CPLR 5003-a(a).

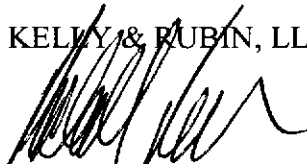
5. More than 90 days have elapsed since the release and stipulation of discontinuance were tendered, and defendant has failed to pay the sum due to the plaintiff, in the amount of \$37,500.00 pursuant to the settlement.

WHEREFORE, it is respectfully requested that judgment be entered pursuant to CPLR 5003-a(e) in favor of plaintiff and against defendant in the amount set forth in the release, with interest on that amount from the date on which the release and stipulation of discontinuance were tendered, together with the costs and disbursements of this action.

DATED: New York, New York
August 5, 2014

Yours etc.

KELLY & RUBIN, LLP.



Michael F. Rubin, Esq.
Attorneys for Plaintiff(s)
275 Seventh Avenue, Suite 1505
New York, N.Y. 10001
Tel. (212) 691-9393

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

DENNIS AYALA

Plaintiff(s).

-against-

THE CITY OF NEW YORK, POLICE
OFFICER EVAN JOHNSON (Shield No.
11101, Tax Id. No. 949143) and POLICE
OFFICER "JOHN DOE"

Defendant(s).

STIPULATION OF
SETTLEMENT

INDEX #:
23000 2012
NYC Law Dep't #:
2013-011141
NYC Comptroller #:
2012PI001040

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned attorneys of record, based upon full authority given by the respective parties, that this action is settled for the total amount of THIRTYSEVENTHousand FIVE HUNDRED Dollars (\$37,500.00), inclusive of costs, interest, attorney's fees, and disbursements, and subject to statutory liens and/or statutory rights to reimbursement by third-parties, including Medicaid, Medicare, Medicare Advantage Plans (MAPs) and prior attorneys, and that for purposes of Medicaid, Medicare, and any other statutory right of reimbursement, this settlement includes compensation for medical expenses.

IT IS FURTHER STIPULATED AND AGREED that based upon this settlement, the plaintiff(s) agree to discontinue this action with prejudice and to release and discharge the City of New York [and Police Officer Evan Johnson (Shield No. 11101, Tax Id #949143), AND POLICE OFFICER "JOHN DOE" and its then past and present officers, managers, administrators, employees, agents, and representatives, and all other individually named defendants and entities represented and/or indemnified by the City of New York (hereafter, "RELEASEES"). Plaintiff has been advised and agrees that he/she is forever barred from seeking any other recovery relating to the subject incident as against the RELEASEES.

IT IS FURTHER STIPULATED AND AGREED that from the total settlement sum, plaintiff(s) shall pay a sum not to exceed N/A Dollars (\$N/A.00), which it is agreed reflects medical expenses in this case, to the New York City Human Resources Administration ("HRA") in consideration of HRA's partial non-assertion of its Medicaid lien against the proceeds of this settlement, and it is further STIPULATED AND AGREED that plaintiff shall pay a sum not to exceed N/A Dollars (\$N/A.00) in consideration of HRA's partial non-assertion of its Public Assistance lien against the proceeds of this settlement, and it is further STIPULATED AND AGREED that HRA will limit its collection for Medicaid and Public Assistance against the proceeds of this settlement to a total collection amount of N/A Dollars (\$N/A.00), or to the amount of the actual liens should they be less than the agreed upon amounts set forth above.

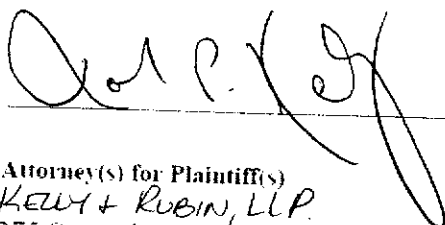
IT IS FURTHER STIPULATED AND AGREED that prior to tendering the requisite documents for payment, as provided in CPLR 5003-a(b), any Medicare-recipient plaintiff shall have notified his/her Medicare provider of the settlement and obtained and submitted with the closing papers a final demand letter from the Medicare provider for reimbursement of secondary

payments made related to the claimed injury in this matter. A Medicare Set-Aside Allocation for future medical costs related to the claimed injury may be necessary pursuant to 42 U.S.C. §1395y(b).

IT IS FURTHER STIPULATED AND AGREED that plaintiff agrees to hold harmless RELEASEES, regarding any liens, claims, or past Medicare or secondary payments, presently known or unknown in connection with this matter. If the Medicare claim has not been satisfied, defendant(s) reserve(s) the right to issue a multi-party settlement check, naming Medicare as a payee, or to issue a check to Medicare directly based on the Medicare provider's final demand letter. Upon tender of all required settlement papers, payment of the settlement shall be made in accordance with CPLR 5003-a(b). Plaintiff is required to obtain a release discharge of any attorney's lien asserted against the proceeds. *Faxed signatures shall be deemed originals.*

IT IS FURTHER STIPULATED AND AGREED that nothing contained herein shall be deemed to be an admission of liability by the defendants herein nor constitute a policy or practice of the City of New York or any agency thereof. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

Dated New York, NY
April 17, 2014

1) 

Attorney(s) for Plaintiff(s)
KELLY + RUBIN, LLP
275 Seventh Avenue, Ste 1505

New York, NY, 10001

Tel: (212) 691-9393

By: Robert P. Kelly

2) _____ for
Zachary W. Carter, Esq.
Corporation Counsel
Attorney for Defendant(s)
CITY OF NEW YORK

_____, NY.

Tel: ()

By: _____

3) _____

Attorney(s) for Defendant(s)

_____, NY.

Tel: ()

By: _____

4) _____

Attorney(s) for Defendant(s)

_____, NY.

Tel: ()

By: _____

GENERAL RELEASE

DENNIS AYALA

_____, the plaintiff in the action entitled
DENNIS AYALA V. THE CITY OF NEW YORK, POLICE OFFICER EVAN JOHNSON (Shield No. 11101, Tax Id. No. 949143) and
POLICE OFFICER "JOHN DOE"

SUPREME Court, BRONX County Index # 23000/2012, being over the age of eighteen
(18) years and residing at _____

as "RELEASOR," in consideration of the payment of Thirty Seven Thousand Five Hundred Dollars
(\$37,500.00), receipt whereof is hereby acknowledged, does hereby release and forever discharge
the City of New York, and all past and present officers, directors, managers, administrators, employees,
agents, assignees, lessees, and representatives of the City of New York, and all other individually named
defendants and entities represented and/or indemnified by the City of New York, collectively the
"RELEASEES", from any and all claims, causes of action, suits, debts, sums of money, accounts,
controversies, transactions, occurrences, agreements, promises, damages, judgments, executions, and
demands whatsoever, known or unknown, which RELEASOR had, now has or hereafter can, shall, or
may have, either directly or through subrogees or other third persons, against the RELEASEES for, upon
or by reason of any matter, cause or thing whatsoever that occurred through the date of this RELEASE.
This RELEASE and settlement constitutes complete payment and satisfaction for all damages and
injuries, including all claims for costs, expenses, attorney's fees and disbursements.

In further consideration of the payment set forth above, RELEASOR hereby waives, releases,
and forever discharges RELEASEE from any and all claims, known or unknown, past and/or future
conditional payments, arising out of the RELEASOR's Medicare eligibility for and receipt of Medicare
benefits related to the claimed injury in this matter, and/or arising out of the provision of primary
payment (or appropriate reimbursement), including causes of action pursuant to 42 U.S.C. section
1395y(b)(3)(A) of the Medicare, Medicaid and SCHIP Extension Act of 2007.

The words "RELEASOR" and "RELEASEE" include all releasors and all releasees under this
RELEASE.

This RELEASE may not be changed orally.

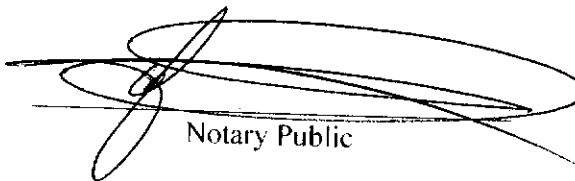
**THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND FULLY
UNDERSTANDS IT.**

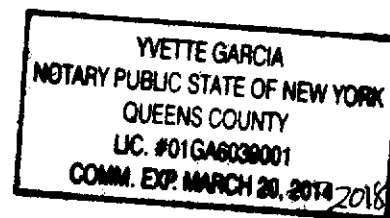
IN WITNESS WHEREOF, I have executed this Release this 17th day of April, 2014.

x. Dennis Ayala Plaintiff
(Signature)

STATE OF NEW YORK: COUNTY OF NEW YORK : ss.:

On April 17, 2014, before me personally came
DENNIS AYALA, to me known, and known to me to be
the individual described in, and who executed the foregoing GENERAL RELEASE, and duly
acknowledged to me that (s)he executed the same.


Notary Public



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

DENNIS AYALA

STIPULATION OF
DISCONTINUANCE
WITH PREJUDICE

Plaintiff(s),

Index #: 23000/2012

-against-

THE CITY OF NEW YORK, POLICE OFFICER EVAN JOHNSON
(Shield No. 11101, Tax Id. No. 949143) and POLICE OFFICER
"JOHN DOE"

NYC Law Dep't #:
2013-011141

Defendant(s),

NYC Comptroller #:
2012PI001040

IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys of record for all the parties to the above-entitled action, that whereas no party is an infant or an incompetent person for whom a committee has been appointed or conservatee and no person not a party has an interest in the subject matter of the action, the above entitled action

☒ is discontinued as to all parties, including all cross-claims and counterclaims, with prejudice and without costs or disbursements to any party.

[If this stipulation is to discontinue the entire action, including all cross-claims and counterclaims, X the box above and cross out the language in the following paragraph. If this stipulation discontinues as to only some of the defendants, X the box below, insert the names of all other defendants the action is being discontinued and cross out the language in the above paragraph.]

☐ is discontinued with prejudice as against only defendant(s) CITY OF NEW YORK, and

without costs or disbursements to either parties.

A copy of this stipulation shall be deemed an original for all purposes and may be filed with the Clerk of the Court without further notice to any party.

Dated: NEW YORK, NY
April 17, 2014

1) Kelly & Rubin, LLP.
Attorney(s) for Plaintiff(s)

275 Seventh Avenue, Suite 1505

New York, New York, 10001

Tel: (212) 691-9393

By:

Sign above/
print below Robert P. Kelly

2)

Zachary W. Carter, Esq.
Corporation Counsel
Attorney for Defendant(s)
CITY OF NEW YORK and

for

Nancy A. Goldbach, Esq.

By:

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 City, State, ZIP+4 NYC 10007

See Reverse for Instructions
 PS Form 3800, August 2006

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SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to: NEW YORK CITY LAW DEPT. 100 CHURCH STREET, 4th floor. NEW YORK, NY 10007 ATTN: VALERIE SINGLETON CENTRAL DISPOSITION UNIT</p>		<p>A. Signature <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Bellevue, G. H. V. S. O. R.</i> C. Date of Delivery <i>4/23/14</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p>	
<p>2. Article Number (Transfer)</p>		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>PS Form 3800</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	

INDEX NO. 23000/2012

DENNIS AYALA,

Plaintiff(s),

- against -

THE CITY OF NEW YORK, POLICE OFFICER EVAN
JOHNSON (Shield No. 11101, Tax Id No 949143) and
POLICE OFFICER :JOHN DOE",

Defendant(s).

**AFFIRMATION IN SUPPORT OF JUDGMENT FOR PROMPT
PAYMENT FOLLOWING SETTLEMENT**

Michael F. Rubin, Esq.

Attorney for Plaintiff

Office and Post Office Address, Telephone

KELLY & RUBIN, LLP.

275 Seventh Ave., Suite 1505

New York, New York 10001

(212) 691-9393

Judgment entered
AUG 06 2014
by **M. G. on**